



**CITY OF SUNNYVALE  
REPORT  
Administrative Hearing**

**May 26, 2004**

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**SUBJECT:** Application for a 10,200 square foot site located at **963 Bryant Way** in an R-1 (Low-Density Residential) Zoning District (APN: 313-02-034);

Motion **2004-0317-** Use Permit to allow a nine foot high fence in the rear yard.

**REPORT IN BRIEF**

**Existing Site Conditions** Single Family Residential House

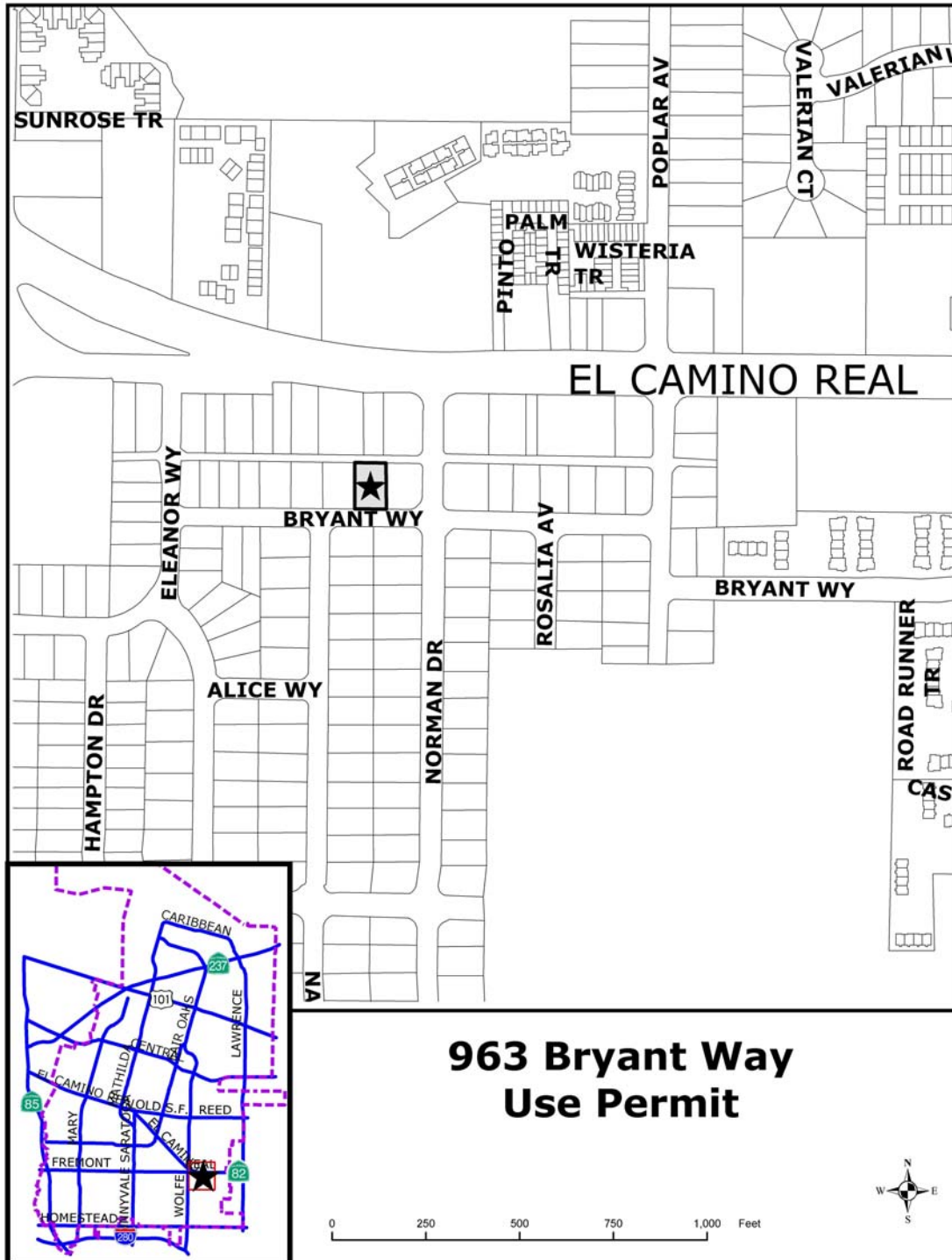
**Surrounding Land Uses**

North	Multi-story commercial development, vacant lot
South	Single Family Residential House
East	Single Family Residential House
West	Single Family Residential House

**Issues** Fence Height Compatibility

**Environmental Status** A Class 11 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

**Staff Recommendation** Approve with Conditions



**PROJECT DATA TABLE**

	<b><u>EXISTING</u></b>	<b><u>PROPOSED</u></b>	<b><u>REQUIRED/ PERMITTED</u></b>
<b>General Plan</b>	RLO	Same	
<b>Zoning District</b>	R-1	Same	---
<b>Lot Size (s.f.)</b>	10,200	Same	8,000 min.
<b>Floor Area (s.f.)</b>	4,032	Same	NA
<b>Lot width (s.f.)</b>	85	Same	72 min
<b>Lot Depth (s.f.)</b>	120	Same	NA

**ANALYSIS****Background**

**Previous Actions on the Site:** The current home was approved as part of a design review in 2001 for a new 2-story home (2001-0493).

**Description of Proposed Project visually striking due to its height**

The applicant has requested approval of a fence greater than 7 feet in height around the perimeter of the rear yard, which requires a Use Permit. Specifically, the fence along the rear property line is 9 feet in height including the retaining wall, as measured from the alley grade. The side yard extensions of the fence design are also greater than 7 feet in height and are within the scope of this request. The fence has already been constructed without appropriate building or planning permits and was brought to the City's attention by an anonymous complaint.

**Environmental Review**

A Class 11 Categorical Exemption for accessory structures relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 11 includes minor accessory structures.

**Use Permit**

**Use:** The project proposes a redwood wood fence with a varied height of up to 9 feet. The subject fence system has already been built. The fence begins in the front yard and steps its way back from 4 feet in height to about 6 feet in height after the front yard. At this time the fence in the side yard is primarily board on board with the posts extending 2-3 feet above the fence line in some instances. The rear property line fence has a concrete masonry unit (CMU) retaining wall of approximately 2 feet and a 6 foot high board on board with a 1

foot decorative lattice for a total height of 9 feet. There is an alley that separates the subject site from the abutting commercial buildings to the north. The purpose of the fence is screen the abutting commercial properties to the north of the home. The applicant has submitted a signed fence agreement from the neighbor to the west in support of his side yard fence height.

**Site Layout:** The subject interior lot is a rectangular lot 85 feet by 120 feet. A new two story home was recently built towards the front of the lot. A pool and spa have been added in the rear yard area last year. Extensive landscaping has been planted along the rear property line to enhance the visual buffer of the commercial buildings to the north. The approximate 50-60 linear feet of rear yard does not abut structures on the neighboring lots. The abutting home pattern has situated homes near the front of the lots similar to the existing home. The property to the east has an old accessory shed located in near the northeast corner of the subject site. The shed is lower in height than the proposed 9 foot high fence.

The applicant has invested in both front yard and rear yard landscaping. The redwood fence is a design feature that runs continuously around the perimeter of the site. The front yard has an open fence design of approximately 3 feet in height near the front property line and the side yard fences that extend back are a solid board on board and step up in height until reaching a six to seven foot height. The side yard fence continues to step up in height until reaching the rear property line. The site was built up during construction of the home and is at a higher grade than the abutting properties. The change in grade makes the fence height much greater to the adjoining properties than internally to the subject site.

**Surrounding Sites:** The two abutting sites both have two-story homes and fences along the side and rear yards. As mentioned earlier those homes are situated near the front of the lot as is the subject site's home. The home to the west was also recently constructed in the past 5 years, including a new fence. The fences on abutting neighbors property lines are approximately 6 feet in height, including along the alley perimeter. All along the alley fences are generally at grade and 6-7 feet in height. The neighbor to the west has signed a fence agreement and it as been submitted in support of the applicant's design.

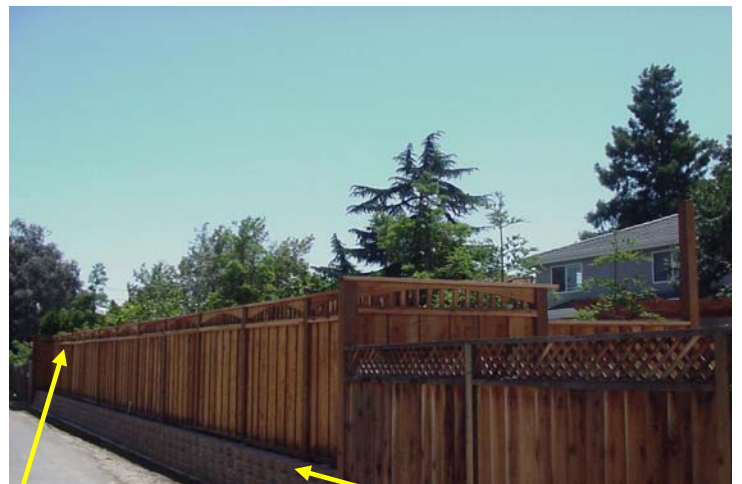
**Discussion:** The overall site has a congruent design theme for the redwood fences and is positive feature for the neighborhood with its variation in patterns in the front yard and stepping back in height to the rear yard. Although the site is above the grade of abutting sites, the additional height towards the rear of the site does not impair the use or enjoyment of the rear yards and provides a visual buffer from the commercial development to the north. Staff recommends permitting the existing 9 foot fence along the rear property line as is with the side yard fence remaining at their current 6-7 foot

height and not to permit an addition of a decorative lattice on top of the board cap. The existing extended posts shall be trimmed down to be consistent with the fences overall height. These recommendations in height and design are dependent upon approval of appropriate building permits.

Staff does have concerns about setting a precedent of extreme heights along the alley. There are only a few blocks of alley access to private property in the City and this situation of fence height would primarily be localized to this neighborhood. At this time most fences along the alley are only 6-7 feet high, but are aged and may need replacing or maintenance. The subject fence along the alley is visually striking in its apparent height despite the use of quality materials and good detailing as compared to other fences. Concerns about "eyes on the street" for safety is also consideration when reviewing fence heights along streets. The build-up of grade on the subject lot also detracts somewhat for neighborhoods compatibility in the instance of overall fence height related to the retaining wall.



Subject Fence and Retaining Wall,  
Alley View, Facing West



Subject Fence and Retaining Wall, Viewed Facing  
East

The following Guidelines were considered in analysis of the project site design.

<b>Design Policy or Guideline (Site Layout)</b>	<b>Comments</b>
<p><b>Single Family Home Design Techniques</b></p> <p><b>Basic Principals- 2. Design Homes to Respect their Immediate Neighbors</b></p> <p><i>Every project should be respectful of adjacent homes and neighbors. New development should avoid privacy, noise, light and visual conflicts with adjacent uses to the maximum degree possible. Special care should be given to the placement and treatment of windows and site landscaping to minimize views into neighboring homes' windows and private outdoor spaces.</i></p>	<p>The proposed fence height will provide adequate privacy during use of the rear yard for both the subject site and the abutting properties.</p>
<p><b>3.11 Landscaping- G. Fencing</b></p> <p><i>For side property lines abutting a public street, low fencing is encouraged. However, when privacy is at issue, fences should be constructed of wood up to a maximum height of six feet with at least the top twelve inches constructed of wood lattice to soften the visual appearance of the fence top.</i></p>	<p>Due to the difference in grade a lower fence height would allow protection of privacy from the abutting sites but would not necessarily protect those same abutting sites from the subject site. The design materials are then of great importance for the proposed height to be compatible. The use of an overall design theme and quality materials contributes to its compatibility.</p>

### **Compliance with Development Standards**

This project complies with the applicable development standards. Building permits are required for fences that exceed 6 feet in height.

### **Expected Impact on the Surroundings**

Visual appearance and compatibility within the neighborhood has been taken into consideration with the proposed fence design and layout. The adjacent and surrounding neighbors will not be impacted by the aesthetic qualities of the proposed fence as the fence is located in a side yard and has been stepped up in height at the center of the property in order to address the privacy concerns with the adjacent lot. The fence has been designed with lattice on the top 1-foot of the fence in order to allow light and air through the structure.

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**Findings, General Plan Goals and Conditions of Approval**

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Staff was able to make the required Findings based on the justifications for the Use Permit.

- Findings and General Plan Goals are located in Attachment 1.
- Conditions of Approval are located in Attachment 2.

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**Fiscal Impact**

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No fiscal impacts other than normal fees and taxes are expected.

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**Public Contact**

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<b>Notice of Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"><li>• Published in the <i>Sun</i> newspaper</li><li>• Posted on the site</li><li>• Mailed to the adjacent property owners of the project site</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City of Sunnyvale's Website</li><li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City's official notice bulletin board</li><li>• City of Sunnyvale's Website</li><li>• Recorded for SunDial</li></ul>

Although Staff has received no input concerning this application, the origin of this application was based upon an anonymous complaint and would suggest some neighborhood interest in an appropriate design and process for approval of the request. The public hearing for the Use Permit is the appropriate process and provides opportunity for neighborhood input.

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**Alternatives**

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1. Approve the Use Permit with attached conditions.
2. Approve the Use Permit with modified conditions.
3. Deny the Use Permit.

**Recommendation**

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Alternative 1.

Prepared by:

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Kelly Diekmann  
Project Planner

Reviewed by:

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Diana O'Dell  
Senior Planner

Attachments:

1. Findings
2. Conditions of Approval
3. Site Plan
4. Fence Detail
5. Use Permit Justifications from Applicant



**Findings - Use Permit**

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1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project assists in providing privacy between two residential properties.

**Single Family Home Design Techniques****Basic Principals****2. Design Homes to Respect their Immediate Neighbors**

*The proposed 9 foot fence maintains privacy for both the subject site and adjacent properties. The screening of commercial uses to the north is an appropriate use of a fence above 7 feet in height. The design materials are high quality and compatible with the neighborhood as designed.*

**3.11 Landscaping- G. Fencing**

For side property lines abutting a public street, low fencing is encouraged. However, when privacy is at issue, fences should be constructed of wood up to a maximum height of six feet with at least the top twelve inches constructed of wood lattice to soften the visual appearance of the fence top.

*Although the fence abuts public right-of-way, it is not functionally a street and visual degradation is less of a concern. Balancing the needs for privacy, safety, and a visual buffer from the commercial uses and use of quality materials supports the proposed height despite its striking visual appearance.*

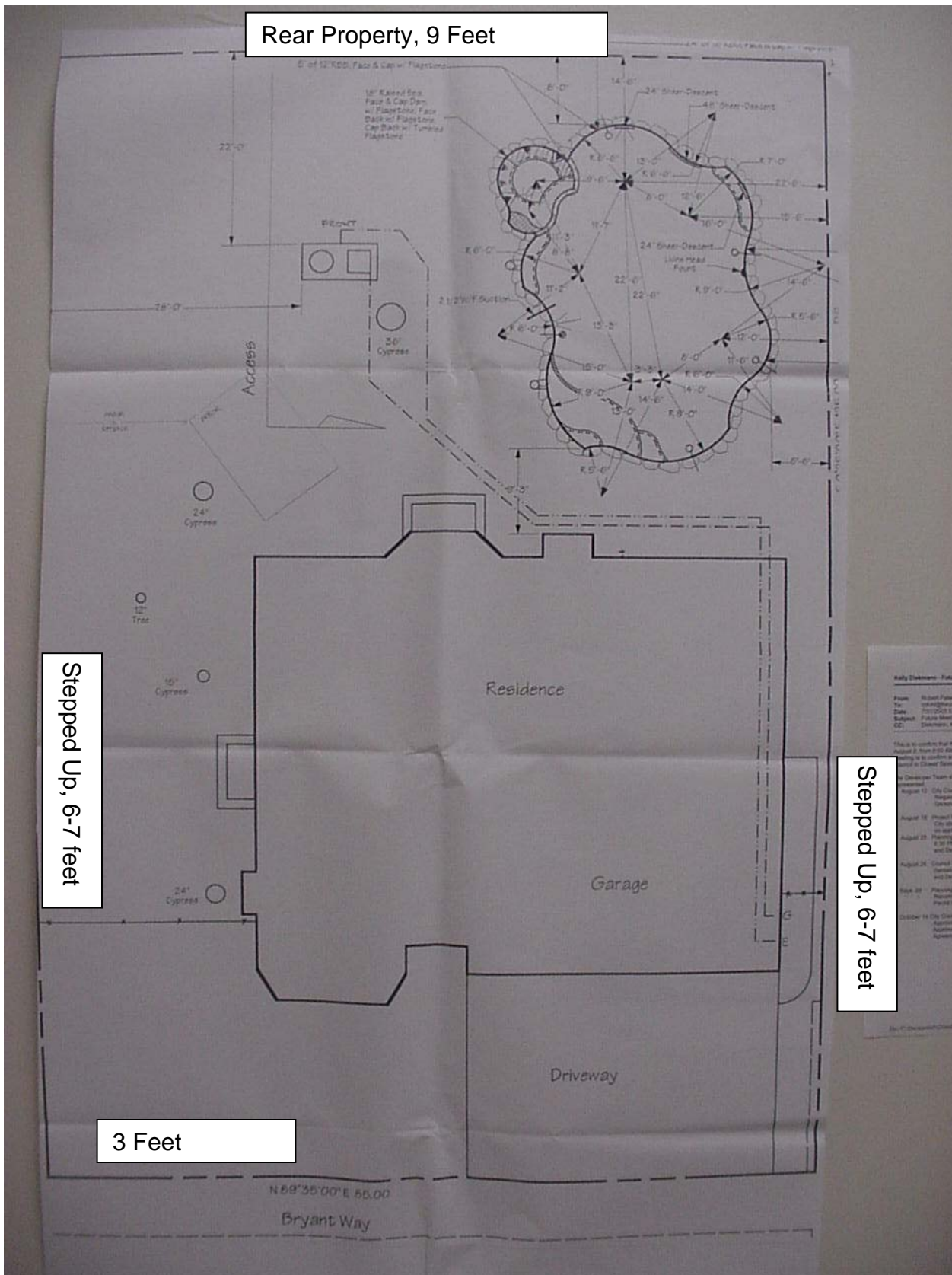
2. The proposed use is desirable, and will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the Zoning District because the fence provides privacy, allows natural light and air between residential buildings and the fence design will be compatible with surrounding neighborhood fence design.

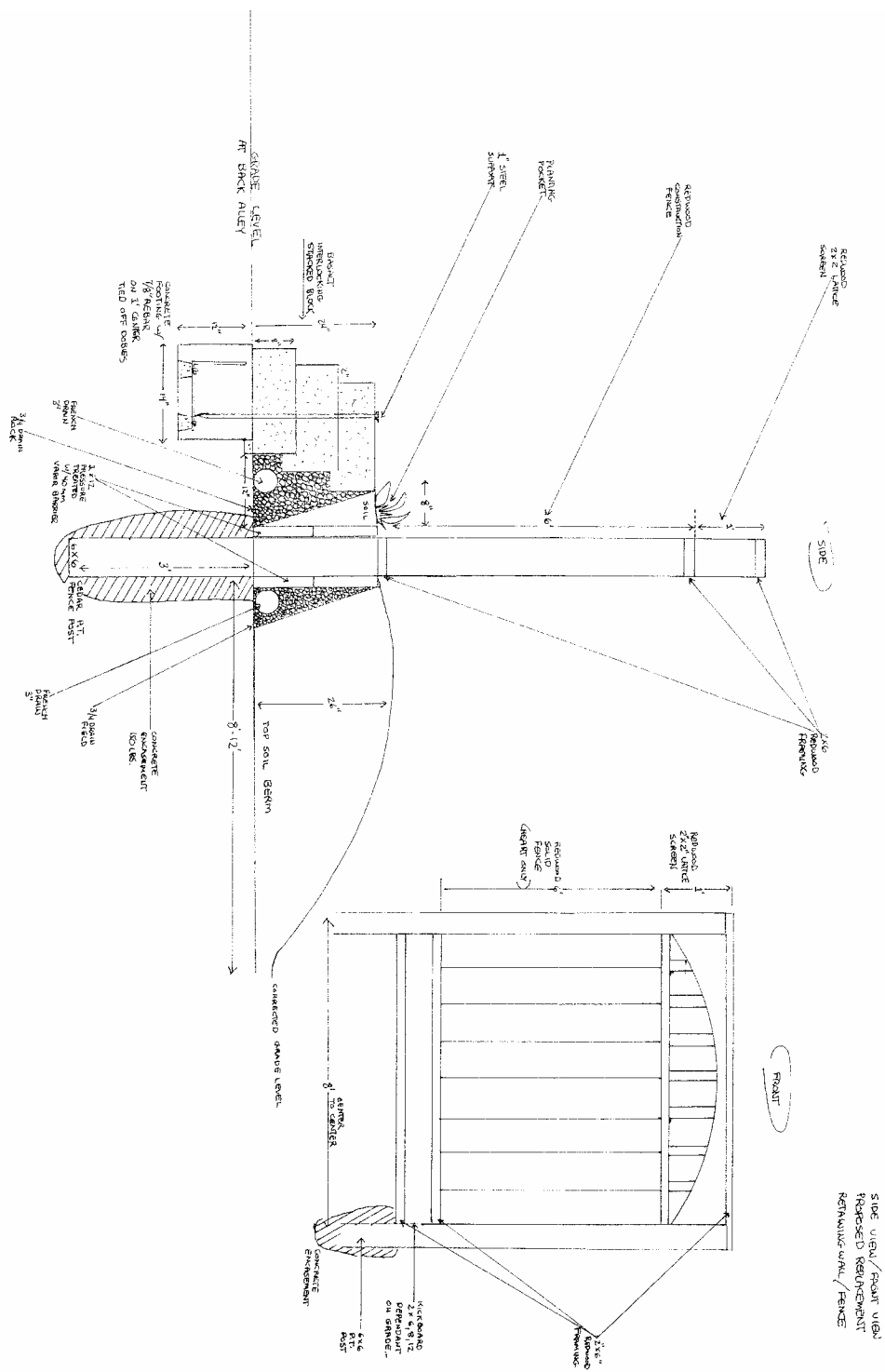
**Conditions of Approval - Use Permit**

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In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances and Resolutions, the Permittee expressly accepts and agrees to comply with the following Conditions of Approval for this Use Permit.

1. This approval is for a Use Permit to allow a side yard fence 7 feet in height as has been constructed in stepped back fashion with the maximum approximate 9-foot height along the rear property line.
2. The two-year expiration date of the Use Permit shall be measured from the date of the approval by the final review authority at a public hearing if the approval is not exercised.
3. The applicant/property owner shall reproduce the Conditions of Approval on the title page of the plans submitted for building permits for this project.
4. Obtain necessary building permits for the fence and accessory structures on the site.
5. Posts extending above the current fence height are to be trimmed down to an appropriate finished height even with the fence.
6. The existing rear property line fence is approved as is with the CMU retaining wall base and board on board design with a decorative woodwork lattice on the top for an overall height of approximately 9 feet as measured from the alley grade.
7. The side yard fence is approved with its stepped back design as is with the extensions to the rear yard required to not exceed seven feet in height. No additional lattice or other material extending the height of the existing fence above the existing seven feet is permitted.





**SPECIAL DEVELOPMENT PERMIT JUSTIFICATIONS**

The Municipal Code states that at least one of the following two justifications must be met before granting the Special Development Permit. Illustrating how your project meets each of the below criteria will assist the City in reviewing your proposal. Use this sheet or a separate sheet of paper to show how the proposed use:

- 1 ) attains the objectives and purposes of the General Plan of the City of Sunnyvale.

THE FENCE/RETAINING WALL ERRECTED ON BRYANT WORKS TO GIVE THE OWNER ADDED SAFETY AND SECURITY. FURTHERMORE IT HELPS TO CUT SOUND FROM EL CAMINO AND AIDS IN PRIVACY FROM THE HOTEL. IT DOES ALL OF THIS WHILE LOOKING BETTER, BEING MORE PERMANENT AND ECOLOGICAL.

- or --  
2 ) ensures that the general appearance of the proposed structures, or uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, the adjacent properties.

THIS RETAINING WALL/FENCE IF ADOPTED BY OTHERS ON THE STREET WOULD GO A LONG WAY IN THE BEUTIFICATION OF AN OTHERWISE POORLY MAINTAINED AND DANGEROUS ALLEY.

If you need assistance in answering either of those justifications, contact the Planning Division staff at the One-Stop Permit Center.